

INFORMAL PROBATE

1

Application for Appointment as Personal Representative

Part 1: The Application and Notice
(Instruction Packet)

SELF-SERVICE CENTER

INFORMAL PROBATE APPLICATION FOR APPOINTMENT AS PERSONAL REPRESENTATIVE

PART 1: The Application and Notice

This packet contains general information and instructions to file and give notice of an Application for Appointment as Personal Representative, whether there was a Will or not. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	PBIP1it	Table on instructions in this packet	1
2	PBIP11p	Procedures: How to Apply to be the Personal Representative	2
3	PBIP20p	Information on Legal Notice for Probate of Estates When a Person has Died and What to do After you have Notified all Interested Persons	2
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5	PBIP16p	Procedures for Appointment of Personal Representative	2

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PROCEDURES: HOW TO APPLY TO BE THE PERSONAL REPRESENTATIVE

USE THIS PACKET IF:

- The value of the real property in the decedent's estate, located in Arizona, less liens and encumbrances, **exceeds \$50,000 as of the date of the decedent's death** (the person who died), **AND**
- The value of all of the personal property in the decedent's estate, wherever located, less liens and encumbrances, **exceeds \$50,000**.
- You want to apply to be the Personal Representative of the estate of a person who died without a Will **OR**
- You want to apply to be the Personal Representative of the estate of a person who died with a Will **AND** You have the **original Will** or a **certified copy of the original Will** to give to the Probate Registrar.
- The death of the person occurred more than 120 hours ago (**5 days**). If that amount of time hasn't passed, you must wait until the 120 hours (**5 days**) has passed.

WHAT TO DO BEFORE YOU COME TO COURT TO FILE ANYTHING:

1. Decide if you are asking for an appointment as Personal Representative for the person who died with no Will, or with a Will. If the person died with a Will, you will also be asking for the Will to be admitted into informal probate.
2. Decide if you are an appropriate person to be the Personal Representative. Generally, to file the Application you must be:
 - Over **18 years** of age **AND**
 - The surviving spouse of the decedent,
 - An adult child of the decedent,
 - A parent of the decedent,
 - A brother or sister of the decedent,
 - A person entitled to property of the decedent,
 - A person who was named as Personal Representative by Will, **OR**
 - You are a creditor and **45 days** have gone by since the person died.

Read the Application and all the other papers in this packet so you know what kind of information you will need to file to be appointed Personal Representative.

3. Determine who are all the other people who are entitled to be the Personal Representative. Also, you will need to determine who are the likely persons who will inherit property under the Will or to whom property will pass by law if there is no Will and who are creditors of the estate. If you are not sure about this, talk to a lawyer who can help you decide.
4. Complete the Application if you want to be appointed as Personal Representative.
5. Go to the people who could also be Personal Representatives.

Ask them if they are willing to sign a WAIVER OF APPOINTMENT and will agree to your appointment as Personal Representative. If they are willing to sign a Waiver, have them sign the Waiver in this packet.

- If the Waiver is signed, **mail or deliver** the Waiver to **all interested persons**. Interested persons are individuals who are heirs, devisees, children, spouse, creditors and others having a property right in or claim against the estate and persons having a priority for appointment as Personal Representative.

6. Estimate what you think is the total value of the estate of the decedent. Go to the people who are entitled to inherit the property under a Will, or to whom property will pass by law if there is no Will, and ask them if they are willing to have you act as Personal Representative without a bond. If they are willing, ask them to sign the WAIVER OF BOND. If the WAIVER OF BOND is signed by all interested persons, **mail or deliver** the Waiver to all interested persons.

Note: A bond will be required unless it is waived by the Will, in writing by all heirs if there is no Will or by all devisees/beneficiaries if there is a Will.

7. Fill out the Probate Cover Sheet, the Application, and attach the **original Will**. Make enough copies for all interested persons. Decide in which court location you will file the Application. The choices are:

DOWNTOWN PHOENIX:

Old Courthouse, 1st Floor
125 West Washington
Phoenix, AZ 85003-2205

NORTHEAST PHOENIX

Northeast Court Facility
18380 N. 40th St.
Phoenix, AZ 85032

SURPRISE:

Northwest Court Facility
14264 West Tierra Buena Lane
Surprise, Arizona 85374

MESA:

Southeast Court Facility
222 East Javelina Drive 1st Floor
Mesa, AZ 85210-6201

File the **original Application** and the **original Will** and have the copies conformed by the Clerk and returned to you. (Conformed means that the original document was filed with the court and date-stamped.) The fee to file is **\$206.00**. If you do not have the money, or the estate cannot afford to reimburse you, you may be entitled to have the fees deferred at the beginning of the case and either deferred or waived at the end of the case. Ask for the Fee Waiver and Deferral documents.

8. Complete the NOTICE OF APPLICATION. Mail or hand-deliver a **copy** of the NOTICE OF APPLICATION and the APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE to everyone entitled to notice. Read the NOTICE OF APPLICATION in this packet to learn who must get notice.
9. If people are entitled to notice and you cannot find them even though you tried very hard to find them, you can publish notice. Read the documents in this packet on how to serve papers when you don't know where the other party lives. You must publish once a week for **3 consecutive weeks**. If you publish, be sure you complete the AFFIDAVIT OF CIRCUMSTANCES, and make sure the AFFIDAVIT OF PUBLICATION that you will get back from the newspaper is filed with the court.

10. Complete the PROOF OF DELIVERY or MAILING OF NOTICE APPLICATION.

WHAT TO DO NEXT: See the *Procedures for Appointment of Personal Representative* in this packet.

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INFORMATION ON LEGAL NOTICE FOR PROBATE OF ESTATES WHEN A PERSON HAS DIED AND WHAT TO DO AFTER YOU HAVE NOTIFIED ALL INTERESTED PERSONS

1. **WHAT IS LEGAL NOTICE:** After you have completed **AND** filed the probate papers with the Court, you must tell **all** interested persons about the papers.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT IMMEDIATELY AFTER I HAVE FILED THE APPLICATION?

To give Notice, you have to give copies of Court documents to those entitled to notice. The documents you need to give those entitled to notice at this time are:

- APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE (when a person died with a Will or without a Will).
- NOTICE OF APPLICATION (in Informal Proceeding).

It is recommended that you give people entitled to notice copies of **all** documents you filed with the court so that you know you gave people copies of the correct documents. You then must list in the PROOF OF NOTICE (see section C, below) the people you gave the documents to, their address and the date the documents were mailed or delivered.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice that is required in some cases for some persons. It requires that a registered process server or the sheriff serve the documents on interested persons or that a person accept service of the papers. When personal service is required, it means the law is written to make sure that a person who needs notice of a case gets the notice.
- **Mail or hand delivery** is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Certified or registered mail with return receipt is an extra step you can take to prove that the person you want to have notice received the notice.

Note: Service by **mail** or **hand-delivery** is only allowed in **SOME** cases, so make sure you read the instructions to see if you can use this method of service.

- **Publication of Notice** is when you do not know the address of the person to whom you need to give notice. For publication, you need to try to find the person who is supposed to get notice, and prove to the Court you did everything you could to try to find the person or the person's address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the case was filed.

Note: Remember that Notice to Creditors (if applicable) must be published **3 consecutive weeks**. (A.R.S. § 14-3801)

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (See **Step 3**). There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) AFFIDAVIT OF PUBLICATION,
- 2) AFFIDAVIT OF SERVICE signed by the process server or sheriff, **OR**
- 3) ACCEPTANCE OF SERVICE.

- 2. TIME FRAMES TO GIVE LEGAL NOTICE:** Generally, you must give **all** interested persons notice of the court papers **immediately** after you file the documents with the court. If you do not know where the person lives and have tried to find them, you can give Notice by Publication.

Note: The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all **3 notices** to interested persons and/or to Creditors have been published.

- 3. WHO IS ENTITLED TO LEGAL NOTICE:** You must give notice to **all** interested persons. This includes, but is not limited to:
- Any person that has filed a Demand for Notice with the court,
 - Any Personal Representative of the decedent whose appointment has not ended,
 - Any spouse,
 - Any adult child(ren),
 - Any parents, brothers and/or sisters of the decedent, **AND**
 - Any person named as an heir in the Will of the decedent.

- 4. COMPLETE THE PROOF OF NOTICE:** After Notice is done, you must complete the PROOF OF NOTICE form. Be sure to list the names of the persons to whom you gave the copies, address, and the date you mailed or delivered the documents. If the person has an attorney, make sure you mail copies to the attorney, too. Then, make **3 copies** of the PROOF OF NOTICE.

- 5. FILE THE PROOF OF NOTICE AND OTHER COURT PAPERS:** File the PROOF OF NOTICE and other court papers with the Clerk of the Court, Probate Registrar. These documents should be filed with the court **immediately** after you have notified all interested persons. See *Procedures: How to Apply to be Personal Representative* to find out what documents you should complete and file with the Probate Registrar. After you file the PROOF OF NOTICE and other court papers, mail or deliver a **copy** to all interested persons **immediately**.

- Take the **original and 2 copies** of the PROOF OF NOTICE and other court papers to the Probate Registrar who will file the original and stamp "copy" on each of the 2 copies and return them to you.
- Keep a copy of each document for your records.

- 6. NEXT STEPS:** Now you are ready to get the rest of the paperwork in order. See Packet number 2 concerning ***"The Appointment, Notice of Appointment, Inventory and Appraisement."***

- 7. OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is. **All forms referred to in these instructions are available at the Self-Service Center.**

SELF-SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS -- BY PUBLICATION

GUARDIANSHIP AND CONSERVATORSHIP CASES AND PROBATE OF ESTATE CASES

(Arrange for service **ONLY** after you have filed your papers in court)

STEP 1 HOW TO PUBLISH: If you are publishing Notice, you should complete the attached letter, describing the documents that need to be referenced by the newspaper for the publication.

A. IF YOU ARE PAYING THE PUBLICATION COSTS YOU MAY USE

any publication of general circulation not limited to those listed below, but they **must** use a format acceptable to the Court. Publications that regularly publish legal notices that are familiar with the requirements include the following:

- i. **THE RECORD REPORTER.** Call (602-417-9900) to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, American Express, and checks or money orders made payable to the Record Reporter are accepted. The cost, for example, of publishing a notice about a guardianship and Conservatorship is currently \$40.20 (as of 6/6/2006).

Mail or deliver payment and the letter that is attached to this form along with a copy of the documents you filed with the Clerk, to: Record Reporter, Legal Advertising, 1505 N. Central, Suite 200, Phoenix 85004. **OR**

- ii. **THE ARIZONA BUSINESS GAZETTE.** Call (602) 444-7315 to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, and checks and money orders, are accepted. The drop box and INSTRUCTION MEMO are located in the Old Courthouse, Probate Administration Filing Counter.

Mail payment and the letter that is attached to this form along with a copy of the documents you filed with the Clerk, to: Arizona Business Gazette, Legal Advertising, P. O. Box 194, Phoenix, AZ 85001, **OR** if you have already arranged payment, you may fax the documents to (602) 444-7364, *or* You may deposit the above in the DROP BOX near the Clerk of Superior Court's filing counter at 201 W. Jefferson in Phoenix. **OR**

- iii. Use any newspaper that publishes in this county,

B. IF YOU HAVE A COURT ORDER WAIVING/DEFERRING COSTS, use the ARIZONA BUSINESS GAZETTE *only*. Follow the instructions in A(ii) above and include the CERTIFIED ORDER WAIVING/DEFERRING COSTS and a copy of the letter and the documents.

Note: There is a filing fee for all Petitions and there are service fees. You may request a WAIVER OR DEFERRAL OF THE FILING FEES (and the Sheriff's or Publication service fees if you intend to use the Sheriff's Office or publication for service) at the time you file your papers with the Clerk of the Court.

STEP 2 WHEN TO FILE:

- **Wait** for the newspaper to send you a copy of the document called AFFIDAVIT OF PUBLICATION in about **5 weeks**. If the newspaper sends you an original, file the original.

DO NOT COPY OR
FILE THIS PAGE

Otherwise, make sure the original AFFIDAVIT OF PUBLICATION gets filed with the Probate Clerk.

STEP 3 GATHER THE PAPERWORK:

- Complete the original of the AFFIDAVIT OF CIRCUMSTANCES AND SERVICE BY PUBLICATION document which is attached.
- If the newspaper has not filed the AFFIDAVIT OF PUBLICATION, make sure it gets filed by using the attached AFFIDAVIT OF PUBLICATION FORM.
- Make a **copy** for yourself of the AFFIDAVIT OF CIRCUMSTANCES AND SERVICE BY PUBLICATION and AFFIDAVIT OF PUBLICATION.

STEP 4 FILE YOUR DOCUMENTS WITH THE COURT:

- Original of the AFFIDAVIT OF CIRCUMSTANCES and SERVICE BY PUBLICATION and **copy** of the publication, **AND**

Original of the AFFIDAVIT OF PUBLICATION you received from the newspaper unless the newspaper filed it for you. Make sure you bring a **copy** of the AFFIDAVIT OF PUBLICATION to the hearing.

DO NOT COPY OR
FILE THIS PAGE

Print Your Name: _____

Your Address: _____

Date: _____

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Probate Court Case No. _____,
about the following: (check one box)

☐ Guardianship and/or Conservatorship matter about (name of person with guardian and/or conservator)
_____, OR

☐ Estate of _____, deceased
Print Name

Enclosed is a copy of the following document stamped by the Clerk of Court (check which box applies):

- ☐ "Notice of Hearing" for matter about guardian and/or conservator, OR
☐ "Notice to Creditors" for probate of an estate, OR
☐ (If no Will) An Application for Appointment of Personal Representative without a Will, OR
☐ (If a Will) An Application for Informal Probate of a Will and for Appointment of a Personal Representative.

Please publish a Notice in your newspaper about this court case once a week for three successive weeks. Also enclosed is (check one box)

- ☐ A check or money order in the amount of \$_____ for the cost of the publication as requested,
OR,
☐ A certified copy of the Order from the court waiving/deferring the publication costs.

When you receive this letter, please call me at _____ to tell me when the first publication will occur. When all three weeks of publication have been completed, please file the original and send me one copy of the Affidavit of Publication.

Thank you for your help in this matter.

Yours truly,

Sign your name

Enclosures

SELF-SERVICE CENTER

PROCEDURES FOR APPOINTMENT OF PERSONAL REPRESENTATIVE AFTER YOU HAVE FILED THE APPLICATION

USE THIS PACKET IF:

- ✓ You want to apply to be the Personal Representative of the estate of a person who died with or without a Will.
- ✓ You already completed and filed the APPLICATION FOR APPOINTMENT and gave notice to everyone who is entitled to notice by law.
- ✓ You filed or will file with the Probate Registrar the PROOF OF MAILING OF NOTICE and also the AFFIDAVIT OF PUBLICATION if you had to publish.

HOW TO GET APPOINTED AND HAVE THE WILL ADMITTED:

STEP 1

Bring the following documents with you to the Probate Registrar at the court location you chose to file all the papers. The Probate Registrar will file the **originals**. Make sure you have made extra copies of all originals so that the Probate Registrar can make conformed (date-stamped) copies for you:

- APPLICATION FOR APPOINTMENT (copy)
- Will, if decedent had a Will (copy should be attached to Application)
- Signed WAIVER OF RIGHT TO APPOINTMENT and CONSENT (**if anyone signed**) (original plus at least one copy)
- Signed WAIVER OF BOND (**if anyone signed**) (original plus at least one copy)
- NOTICE OF APPLICATION (original plus at least one copy)
- PROOF OF NOTICE OF DELIVER/MAILING OF APPLICATION (original plus at least one copy)
- AFFIDAVIT OF CIRCUMSTANCES OF PUBLICATION and AFFIDAVIT OF PUBLICATION (**if you published**) (original plus at least one copy)
- STATEMENT OF INFORMAL APPOINTMENT (original plus at least one copy)
- LETTERS and ACCEPTANCE OF APPOINTMENT (original plus at least one copy)
- ORDER TO PERSONAL REPRESENTATIVE (original plus at least one copy)

STEP 2

Before you make any copies, complete the STATEMENT OF INFORMAL APPOINTMENT except for the part about the bond and the signature of the Probate Registrar. Also, complete the caption of the LETTERS, and the caption of the ORDER TO PERSONAL REPRESENTATIVE, which includes the information about you, the decedent (name of the person who died), and the case number, which begins with "PB".

STEP 3

If all is in order, the Probate Registrar will:

- Sign the STATEMENT,
- Submit the Will (if there is one),
- Issue the LETTERS OF APPOINTMENT, **AND**

- Sign the ORDER TO PERSONAL REPRESENTATIVE.

Then you will sign the ACCEPTANCE OF APPOINTMENT and acknowledge receipt of the ORDER TO PERSONAL REPRESENTATIVE (This form is required by local rule in Maricopa County **only**).

STEP 4

If you are required to post a bond, the Probate Registrar **will not** sign the LETTERS until you have filed proof of the bond. After you file proof of the bond get the LETTERS issued.

STEP 5

You will need to get a certified copy of the LETTERS, to prove you were appointed. The cost is \$18.00 per certified copy plus \$0.50 per page to do this. Also ask the Probate Registrar to conform a copy of the STATEMENT OF INFORMAL APPOINTMENT for you.

Do not copy
or file this page